IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2853 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT GAS COMPANY LTD. - Petitioner(s)

Versus

GUJARAT GAS COMPANY LIMITED EMPLOYEES' UNION & 2 - Respondent(s)

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Appearance :

NANAVATI & NANAVATI for Petitioner(s) : 1,
MR DIPAK R DAVE for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 29/09/2005

ORAL JUDGMENT

1. In the present petition, the petitioner has challenged an order dated 2nd December, 2002 passed by the

Assistant Labour Commissioner and Conciliation officer under the Industrial Disputes Act, Surat by which the objection of the petitioner to the petitioner being joined as party to the conciliation proceedings came to be turned down. The petitioner has also challenged an order dated 31st January, 2003 passed by the Dy. Labour Commissioner referring for adjudication certain demands raised by the respondent no.1-union on behalf of the certain employees. Broadly stated, it is the case of the petitioner that some nine persons were terminated by Gujarat Gas Financial Services Limited about which conciliation proceedings were initiated. According to the petitioner since the petitioner was not the employer there was no necessity to join the petitioner in the conciliation proceedings nor can the petitioner have been made a party to the reference proceedings.

2. After some discussion at the bar, I find it appropriate to dispose of the present petition by permitting the petitioner to raise all its contentions before the Industrial Tribunal to whom the dispute is referred for adjudication. Observations made by the Conciliation Officer in his order dated 2nd December, 2002 would not come in way of the petitioner in his contention

and the Industrial Tribunal shall decide the contention of the petitioner unmindful of the observations made in the said order.

3. Learned counsel for the petitioner submitted that the petitioner would like to contend before the Industrial Tribunal that the petitioner is not a proper or a necessary party in the reference and the petitioner be deleted from the proceedings. If the petitioner raises such contention and also requests the Industrial Tribunal to decide the same as a preliminary issue, the Industrial Tribunal shall decide such a question as a preliminary contention in accordance with law and on the basis of material that may be placed on record by both the sides. Industrial Tribunal may endevour to decide the preliminary issue within a period of six months from the date of receipt of a copy of this order. With these directions the petition is disposed of. Rule is made absolute to the above limited extent. No order as to costs. Interim relief granted earlier stands vacated.

(Akil Kureshi, J.)

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